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COMMONWEALTH of VIRGINIA

WILLIAM L. WOODFIN, JR.
DIRECTOR

DEPARTMENT OF WASTE MANAGEMENT

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October 8, 1992

Mr. Thomas C. Voltaggio, Director
Hazardous Waste Management Division
U.S. Environmental Protection Agency
841 Chestnut Building
Philadelphia, PA 19107

Dear Mr. Voltaggio:

This responds to your letter of September 3, 1992 requesting approval from the Department to allow backfilling of soil from the Rentokil (Virginia Wood Preserving) site in Richmond, Virginia, after it is treated to meet the approved site-specific clean-up levels. I concur with the proposed remedial action and request that full documentation supporting this action be in the record.

Enclosed is the staff review of the proposed remedial action. Please call me or Mr. John E. Ely of my staff if you have any questions. I can be reached at (804) 225-2999 and Mr. Ely can be reached at (804) 786-5764.

Sincerely,

William L. Woodfin, Jr.

WLWjr:JEE:jmj

cc: James C. Adams
K. C. Das
John E. Ely

Enclosure: 1

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ADMINISTRATIVE REVIEW REGARDING BACKFILLING OF SOIL
FROM THE RENTOKIL (VIRGINIA WOOD PRESERVING) SITE
IN RICHMOND, VIRGINIA

A waste is generated when contaminated soils are excavated. The generator of these materials has an obligation to determine whether or not the waste is hazardous. If a hazardous waste is generated or otherwise managed in this state, it must be handled in accordance with the Virginia Hazardous Waste Management Regulations (VR 672-10-1) ("VHWMR"). I note that there are existing and proposed listings for wastes from wood preservation that should be examined for proper classification of these materials. We still apply the "mixture" and "derived from" rules in our regulatory interpretations. As you know, this Department is pursuing authority to establish risk-based closures in hazardous waste cases.

Assuming that the contaminated soil is not a hazardous waste, it is still subject to the requirements of the Virginia Solid Waste Management Regulations (VR 672-20-10) ("SWMR"). In general, this Department considers contaminated soil to be a "special waste." Special wastes are unusual solid wastes that can be disposed of in a solid waste management facility after the receiving facility obtains a waste-specific letter of clarification from this Department. Disposing the soils as special wastes would reduce the costs outlined in your letter, since the soils would go to a solid waste disposal facility rather than to a hazardous waste disposal facility.

In addition, although the SWMR do not specifically encompass a "contained in" rule analogous to the rule used in hazardous waste management, this Department has applied the contained-in rule by extension to solid waste issues. Thus, solid waste contaminated media that are effectively treated to health-based levels may be considered to be no longer a solid waste. Like the hazardous waste contained-in rule, the solid waste application does not establish at what level the media cease to be considered contaminated, and such decisions are made on a case-by-case basis. Therefore, there would have to be a complete risk assessment of leaving the treated materials in place, evaluating the nature of the wastes, pathways, health effects, etc. As you are aware, this is a new area for the Department, and it is the subject of comprehensive proposed regulatory action by the Virginia Waste Management Board. Final action of the Board is expected by the end of the year. To date, we have been very cautious in agreeing to health-based levels for solid waste constituents. There must be a clear and convincing scientific foundation for the levels. The same standards must

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